



<p><u>NCSL Education Committee policies &amp; NCSL-NGA Plan to Reauthorize ESEA</u></p>	<p><u>S. 1177 – Every Child Achieves Act (as passed by the Senate)</u></p>	<p><u>H.R. 5 – Student Success Act (as passed by the House)</u></p>
<p>Changing the ESEA <b>governance</b> structure, definitions and state plan submission process to provide governors and state legislatures greater authority to align and leverage their early education, K-12 and postsecondary system policy and finances to achieve greater educational effectiveness and efficiency.</p>	<p>Includes “representatives of the state legislature” as a party which must be meaningfully consulted in the development of the state’s education plan</p> <p>Specifies meaningful consultation with the governor in development of the state plan, and provides 30 days for the governor to sign off on the state plan; if the governor does not sign off, the state education agency (SEA) may submit the plan after the 30-day period</p>	<p>Requires that the state legislature expressly approve federal grant programs to operate in the State, either through approval of the program itself or through approval of the state budget that includes the program and thereby agrees to abide by its guidelines</p>
<p>State legislators support the voluntary state <u>standards</u> initiatives so long as the initiatives remain voluntary, state-led and state-administered, and so long as the federal government does not overstep its role, and the U.S. Department of Education complies with its statutory authority and programs and does not condition the receipt of federal dollars on state participation in common standards efforts.</p>	<p>Maintains current requirements for challenging math, reading, and science standards, along with any other subjects the state deems appropriate</p> <p>Standards must be aligned with higher education entrance requirements and measures included in the Perkins Act (career/tech education)</p> <p>Alternative academic content and achievement standards, as in current law, are allowed for the students with the most significant cognitive disabilities</p> <p>Requires an assurance that English language proficiency standards are aligned with the state’s academic content standards</p>	<p>Each state is required to adopt academic content and achievement standards in math, reading or language arts, and science; standards must apply to all public school students, with all achievement standards including the same knowledge, skills, and levels of achievement for all of these students</p> <p>Alternate achievement standards are permitted for students with the most significant cognitive disabilities on a case-by-case basis</p> <p>English language proficiency standards required; would be aligned with state’s overall reading or language arts standards</p> <p>The Secretary is prohibited from incentivizing/influencing the state’s use of certain standards (eg. Common Core)</p>



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<p>As states take on the complicated challenge of improving the quality of their state <u>assessments</u> while identifying any unnecessary state and local tests, the federal government should support these efforts by providing flexibility for states to use innovative new assessments</p>	<p>Assures that states would not be required to submit any achievement or content standards to the U.S. Secretary of Education for approval</p> <p>The Secretary would further be prohibited from altering a state's standards, requiring particular or additional standards (eg. Common Core), requiring the use of particular assessment systems.</p> <p>Adds career &amp; technical education as a core subject</p>	
	<p>Continues current law requiring assessments in math and reading each year in grades 3-8 and at least once in grades 9-12; science assessment requirements would also remain, being given at least once in each of the following grade groups: 3-5, 6-8, and 9-12</p> <p>States may seek flexibility in order to pilot new assessments, including competency- and portfolio-based assessments</p> <p>States must provide assurance that their assessments in the above-mentioned subjects are high-quality and are aligned with the state's standards</p> <p>Would limit alternative assessments for students with disabilities to 1% of the state's student population</p>	<p>States, in consultation with local educational agencies (LEAs), shall develop assessments in math, reading or language arts, and science; states retain the right to develop assessments in other subjects as they deem appropriate</p> <p>Assessments can be given as one complete assessment or in multiple segments throughout the academic year</p> <p>Math and reading or language arts assessments would be required each year in grades 3-8 and at least once in grades 9-12; science assessments would be required once in each of the following grade groups: 3-5, 6-9, and 10-12</p> <p>Allows for alternative assessments for those students with the most significant cognitive disabilities; requires assessments of English proficiency among English language learners;</p>



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<p>Governors and state legislatures support an <b>accountability</b> system that moves away from the “label and punish” model of No Child Left Behind to a supportive framework that provides high expectations to genuinely support the unique strengths and capabilities of each student.</p>	<p>Requires annual English proficiency assessments</p> <p>Maintains disaggregation of student data by subgroup</p> <p>Requires states to set a time limit on the aggregate amount of time spent on assessments</p> <p>Requires that parents be notified of any rights they may have under state and local law to opt their children out of annual assessments</p> <p>Must be administered to 95% of students (and 95% of each subgroup)</p> <p>Requires states to set annual achievement goals for the overall student population, as well as goals for individual subgroups</p> <p>Requires the state plan to outline a universal, statewide accountability system aligned to the state’s standards, as determined by the SEA</p> <p>States must assure that their standards are measuring at least one of the following: academic achievement including graduation rates, one measure of college or workforce readiness, achievement gaps, and subgroup performance; states would determine the weight of each particular factor</p>	<p>permits the creation of computer adaptive assessments</p> <p>Maintains disaggregation of student data by subgroup</p> <p>Must be administered to at least 95% of students (and 95% of each subgroup), though parents may opt their children out of tests with these students not counted against the rate</p>
		<p>Requires the creation of state-based accountability systems that ensure that public school students are college- or career-ready</p> <p>Systems must measure public school student achievement against the state’s standards, evaluate the performance of each public school (based on student achievement, achievement gaps, and other measures), and include a school improvement strategy (state-developed) for low-performing schools</p>

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<p>A reauthorized ESEA should be accompanied by an increase in state authority to manage programs and have more certainty in the <u>state plan</u> and waiver approval process.</p>	<p>Graduation rates calculated on a four-year adjusted cohort</p>	
	<p>State plan would span a seven (7) year period, with state flexibility to resubmit</p> <p>Developed in consultation with the governor, LEAs, tribal representatives, teachers, principals, other school leaders, specialized instructional support personnel, paraprofessionals, administrators, other staff, and parents</p> <p>Describes how the plan is coordinated with other programs in the legislation, as well as IDEA, Rehabilitation Act, Perkins, WIOA, Head Start, CCDBG, ESRA, Education Technical Assistance Act, NAEP, McKinney-Vento, and Adult Education &amp; Family Literacy</p> <p>Establishes a peer review process of state plans that includes representatives of parents, teachers, SEAs, LEAs, and private sector employers; must approve a plan within 90 days of submission unless the Secretary shows evidence that it does not meet the requirements</p> <p>States would be given 45 days to amend and resubmit their plan if the Secretary determines it does not meet the requirements of the legislation; the Secretary must provide technical assistance during this revision</p>	<p>Must describe how the state will implement the standards, assessments, and accountability systems of the legislation within two (2) years of passage</p> <p>Developed in consultation with LEAs, teachers, school leaders, public charter school representatives, specialized instructional support personnel, other appropriate school personnel, parents, private sector employers, entrepreneurs, and representatives of Indian tribes located in the State</p> <p>Describes how the programs of this legislation are coordinated with IDEA, Perkins, Head Start, Adult Education &amp; Family Literacy, and McKinney Vento</p> <p>Establishes a peer review process of state plans that includes representatives of parents, teachers, SEAs, LEAs, and private sector employers; U.S. Secretary of Education (or the Secretary's representatives) cannot participate in or attempt to influence the peer review process</p> <p>The Secretary shall approve state plans within 120 days of submission; cannot reject a plan without giving the state a chance to revise, providing technical assistance to help the state</p>



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<p>allowing states the flexibility to distribute <u>funding</u> to areas of greatest need.</p>	<p>The Secretary would be prohibited from approving or disapproving a plan based on a state's use of specific standards, assessments, accountability systems, student growth measures, other academic indicator measures, teacher/leader evaluation systems, and teacher/leader effectiveness</p> <p>States would be permitted to continue operating under state plans developed as part of their current ESEA flexibility waiver</p> <p>States are required to develop and share an annual state report card, which would include several statistics including graduation rates, teacher qualifications, school climate and quality, per pupil expenditures, English language proficiency, and more</p>	<p>meet the legislation's requirements, and providing a hearing</p> <p>The Secretary can disapprove a plan, but not based on a requirement to use specific standards, assessments, or accountability systems</p> <p>State plan remains in effect for duration of the law's existence, and may be amended if the state so desires or if changes to the federal law require it</p> <p>States are required to publish a state report card; LEAs are required to publish local report cards</p> <p>LEAs would also have to develop plans for submission to and approval by the state</p>
<p>Allowing states the flexibility to distribute <u>funding</u> to areas of greatest need.</p>	<p>Amends the formula for Title I grants; changes formula to account for children in poverty and national average cost of educating a child, not the cost in a particular state (kicks in when Title I, Part A funding hits \$17 billion, and only applies to dollars above that mark)</p> <p>Maintenance of Effort (MOE) provision retained at 90 percent of the amount from the previous year</p> <p>Flexibility provisions put into place for MoE: one year grace period for states and local</p>	<p>Includes the ability of states to implement Title I portability grants (money follows the student)</p> <p>Eliminates current Maintenance of Effort requirement</p> <p>Establishes the Local Academic Flexible Grant, \$2.7 billion in formula funds to states, with the majority being subgranted to LEAs for programs such as afterschool activities, tutoring, expanded learning time, etc.; can also be used to audit/streamline assessment systems</p>



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<p>Focusing on the need for <u>effective teachers</u> in classrooms, rather than meeting a federal definition of “highly qualified teachers”; allowing states the ability to establish state based teacher evaluation systems, with evaluations measured in conjunction with state established standards and accountability systems.</p>	<p>districts if they fall below the federal requirement, and removal of penalties if they institute policies that make their systems more efficient and effort level drops as a result</p> <p>Additional flexibility for “supplement, not supplant” to prevent the federal government from requiring states to justify additional costs/services and whether they are supplemental, as well as from requiring services in a particular method.</p>	<p>Authorizes grants to support successful charter schools; facilities financing assistance; magnet school assistance; family engagement programs</p> <p>States would be permitted to consolidate administrative funds from various programs’ funding streams</p> <p>States would also be permitted to consolidate funds from these programs aimed at implementation (technical assistance, best practices sharing, etc.)</p> <p>Authorizes grants to support and replicate high-quality charter schools; direct support service funds could be used to pay for transportation of students to charters</p>
	<p>Removes the “highly qualified teacher” provision in current law</p> <p>Federal government may not impose requirements for state or local teacher evaluations as a funding condition</p> <p>States permitted to use Title II funding to develop statewide teacher and leader evaluation systems, but evaluation systems are not a condition for Title II funding</p> <p>Creates a teacher incentive fund for states, to assist in the development of performance-based pay structures</p>	<p>Removes the “highly qualified teacher” provision in current law</p> <p>Provides Title II funding for:</p> <p>States: 95% for grants to LEAs; remaining funds to be used for technical assistance to LEAs on implementing the state’s teacher evaluation system (or developing/instructing employees on a local evaluation system), dissemination and sharing of evidence-based/effective practices for teacher and leader development, provide professional development for teachers, leaders, and specialized instructional support staff, design/implementation of workforce</p>

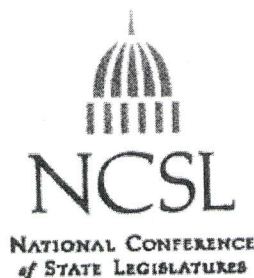


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<p>A reauthorized ESEA should be accompanied by an increase in state authority to manage programs and have more certainty in the state plan and <u>wavier</u> approval process.</p>	<p>Other allowable uses include identifying high-performing teachers, training teachers for work in high-need subject areas, increased professional development, create teacher and principal prep programs, and increase the number and quality of STEM educators</p> <p>Requires background checks of school employees as a condition of receiving federal education funds; prohibits facilitation/completion of a transfer of an employee known to have sexually abused a minor</p>	<p>shortages in high-need fields (e.g. STEM, computer science, foreign language), and developing pay for success initiatives</p> <p><u>Locals</u>: developing a local teacher evaluation system (if the state does not have one), implementing a state's system if it does, professional development for teachers and leaders, partnering with private or public organizations/consortia to develop teacher evaluation system, class size reduction (limited to 10% of funds), and pay for success initiatives</p> <p>Provides for formula funding to states, with the purpose of awarding these funds to LEAs in a competitive grant system for recruiting, hiring, and retaining effective teachers</p>
	<p>States would remain able to request a waiver from any statutory or regulatory provision of this legislation</p> <p>Local districts can request an approval from provisions of the legislation, but only after receiving approval to do so from the SEA</p> <p>The Secretary must make an approval decision within 60 days of submission of the request</p> <p>If denied, the state would have the opportunity to revise their request; if denied again, the state could request a hearing</p>	<p>States would remain able to request waivers from provisions of this legislation</p> <p>The Secretary would be prohibited from requiring the use of certain standards, assessments, or accountability or evaluation systems as a condition of waiver approval</p> <p>Would provide for a public comment in a state period before the state's waiver request is submitted</p>



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<p>NCSL supports federal efforts to improve <u>early learning</u> opportunities for young children. Efforts to support early learning must provide states with the flexibility to meet local needs.</p>	<p>Early Learning Alignment and Improvement Grant program established; provides funding to improve coordination, quality, and access among a state's early childhood programs</p> <p>Three-year grant; would require a 30% match guarantee from the state, though the funds could be obtained from a variety of sources (including federal)</p> <p>SEAs can use Title I and II funds on early childhood programs, teacher development, etc.</p>	<p>No specific provision for early childhood education program</p>

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## **REAUTHORIZATION OF THE ELEMENTARY AND SECONDARY EDUCATION ACT**

### **Presentation for the Montana Education and Local Government Interim Committee**

The Elementary and Secondary Education Act (ESEA) was originally enacted in 1965 as part of the War on Poverty. The intent of the legislation was to ensure equality of education opportunity by providing federal assistance to schools educating large numbers of children in poverty. The law also contains many other programs besides the Title 1 grants for schools to education disadvantaged students. These include programs for the education of migrant children and English Language Learners, grants for teacher and principal professional development, the McKinney-Vento education for homeless students program, and programs for Indian, Native Hawaiian, and Alaska Native students.

ESEA was last reauthorized as No Child Left Behind (NCLB) in 2002. The reauthorized law required that schools test and report on students' progress and put a special focus on poor children and children of color. Schools had to meet a standard called Adequate Yearly Progress (AYP), and by 2014 the standard required having all students proficient in reading and math. States were required to impose an increasing harsh set of penalties on districts and schools that didn't make appropriate progress. The next ESEA reauthorization was supposed to occur in 2007. Many observers, including Congressional staff involved in drafting NCSL, expected that changes would be made to provisions of the law that point, especially regarding AYP, but that hasn't happened. Dissatisfaction with the law and the lack of Congressional action meant that the U.S. Department of Education offered waivers to states to allow them to get out of the most onerous requirements of the law. 42 states and D.C. currently have such waivers. But such flexibility did come with strings attached such as a requirement to use teacher evaluations based on student achievement.

There is a sense of urgency in both chambers to get reauthorization done this year, because major legislation probably won't fare well in Congress next year, a Presidential election year. This past July, the Every Child Achieves Act (ECAA, S. 1177) has passed the Senate, and the Student Success Act (H.R. 5) has passed the House. The bills await a Senate-House conference. The Administration has issued a veto threat to H.R. 5. While the Statement on Administration Policy on S. 1177 noted changes that the Administration would like to see in the Every Child Achieves Act, it did not threaten a veto.

There are similarities between the two bills, and overall both provide states with much more flexibility than current law. Both bills do away with the No Child Left Behind accountability system, although they keep annual assessments, a major issue in the debate over reauthorizing ESEA. The current testing schedule of NCLB would remain in place, but a state would have more flexibility in how such testing is used in its accountability system. Both bills contain language aimed at prohibiting federal involvement in various aspects of education policy. Both bills eliminate the "Highly Qualified Teacher" provision of NCLB, and neither contains

a teacher evaluation mandate. Despite these similarities, there are process and policy differences between the House and the Senate that could impact conference.

### Process Differences

HOUSE	SENATE
<ul style="list-style-type: none"> <li>Pulled from the floor February 2015.</li> <li>Came back to floor with a new rule in July that allowed additional amendments to be considered, but not all of the new amendments were adopted</li> </ul>	<ul style="list-style-type: none"> <li>Began with a Chairman's mark that was not bipartisan. Then Chairman Alexander and Ranking Member Murray produced a committee bipartisan bill that was reported out of committee unanimously, with many controversial amendments left for floor consideration.</li> </ul>
<ul style="list-style-type: none"> <li>The vote on final passage was 218-213. The vote was held open and 27 GOP members voted against final passage</li> </ul>	<ul style="list-style-type: none"> <li>To a large extent, Senate floor consideration of the bill was collegial and fairly bipartisan. The Senate set a 60 vote margin for contentious issues, and members were being urged to negotiate amendments to find consensus. The bill passed 81-17.</li> </ul>

### Some Major Policy Differences

HOUSE	SENATE
Maintenance of Effort (MOE) ESEA eliminated	Maintains MOE, offers some new flexibilities
Parental opt out of assessment with opt outs not counted against the requirement to test 95% of students	States would have to have to let parents know their rights under state law to opt out of testing.
HQT repealed; formula grants for evaluation	HQT repealed; can use Title II for evaluation
Not in the bill	Early Learning Alignment and Improvement Grants
Local academic flexibility grant eliminates about 70 programs	Not in the bill
Not in the bill	Amends the formula for Title I grants; changes formula to account for children in poverty and national average cost of educating a child, not the cost in a particular state (kicks in when Title I, Part A funding hits \$17 billion, and only applies to dollars above that mark)
Title 1 portability to public and traditional charter schools	Not in the bill

One issue that both bills address is governance of education policy. NCSL got language in the Senate bill adding "representatives of the state legislature" to the list of entities that the State Education Agency must consult with in a timely and meaningful fashion before submitting the Title I plan. There is language in the House bill stating that the U.S. Department of Education cannot enforce any condition of receiving assistance under an ESEA grant program unless the state legislature has approved it. Additionally, federal funding for an ESEA grant program can't be dispersed until the legislature has approved the program or has affirmatively adopted a budget that approves funding for any requirement that is a grant condition.